

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
AT HYDERABAD

OA.1492/94

dated : 19-12-94

Between :

S. Babu Rao, : Applicant

and

1. The Sub Divnl. Officer
Telecom, Narsipatnam
Visakhapatnam Dist.

2. The Sub Divnl. Officer
Telecom, Rajahmundry

3. The Telecom District Manager
Rajahmundry

4. The Divnl. Engineer
Telecom, Bhimavaram
WG Distrtct, AP : Respondents

Counsel for the applicant : K.L. Narasimham, Advocate

Counsel for the respondents : N. G. Narayana Rao, Esq. for Central

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

O.A.No.1492/94.

Date: 19/94

JUDGMENT

I as per Hon'ble Sri R.Rangarajan, Member(Administrative)

Heard Sri K.L.Narasimham, learned counsel for applicant and Sri N.R.Devaraj, learned standing Counsel for the respondents.

2. The applicant herein joined as Casual Labour on 15.12.1988. He worked under R-1 from 15.12.88 to 30.12.1988, under R-2 & 3 from 1.5.1990 to 15.5.1990 and again from 10.6.1991 to 30.11.1991 and lastly from 1.11.1992 to 30.11.1992 under R-4. The applicant was orally terminated on 30.11.1992 by R-4. It is stated for the applicant that oral termination was done without notice and opportunity and in violation of rules though the work is available for continuing him. He further states that number of his juniors have been retained in service ignoring the applicant. He relies on Annexure-II letter dt. 22.2.1993 to state that the Casual Labourers recruited after 31.3.1985 shall not be retrenched or removed from service. He submitted a representation on 1.6.1993. It is also stated that no action will be taken if there is a court order.

3. Under the above circumstances he has filed this OA under section 19 of the Administrative Tribunals Act for a direction to the respondents to take him into service by declaring the termination of the applicant dt. 30.11.1992 by R-4 as illegal and violative of Articles 14 & 16 of Constitution of India.

4. Department of Personnel & Training, Government of India vide its O.M.No.49014/4/90-Estt.(C) dt. 8.4. relaxed the age limit and sponsorship through Employment Exchange in case of casual workers recruited before 7.6.1988 for regular appointment in Group 'D' posts. The relevant portion of the instruction reads as under:-

"Requests have now been received from various Ministries/Departments for allowing relaxation in the condition of upper age limit and sponsorship through employment exchange for regularisation of such casual employees against Group 'D' posts who were recruited prior to 7.6.1988, i.e. date of issue of guidelines. The matter has been considered and keeping in view the fact that the casual employees belong to the economically weaker section of the society and termination of their service will cause undue hardship to them. It has been decided, as a one time measure, in consultation with the Director General, Employment and Training, Ministry of Labour, that casual workers recruited before 7.6.1988 and who are in service on the date of issue of these instructions may be considered for regular appointment to Group 'D' posts, in terms of the general instructions, even if they were recruited otherwise than through employment exchange and had crossed the upper age limit ~~they are otherwise eligible for~~ regular appointment in all other respects."

As per the above O.M. casual labourers who are appointed on or before 7.6.1988 may be considered for regular appointment for Group 'D' posts even if they are not sponsored through the Employment Exchange. This would mean that those who are recruited after 7.6.1988 without being sponsored through Employment Exchange cannot be considered for relaxation and casual workers should be taken only ~~from~~ ~~for~~ ~~from~~ candidates after that date so that he can be regularised at a later date.

To

1. The Sub Divisional Officer, Telecom, Narsipatnam, Visakhapatnam Dist.
2. The Sub Divisional Officer, Telecom, Rajahmundry.
3. The Telecom District Manager, Rajahmundry..
4. The Divisional Engineer, Telecom, Bhimavaram, W.G.Dist. A.P.
5. One copy to Mr.K.L.Narasimha, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, Sr.CGSC CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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The applicant herein was appointed after 7.6.1988. He cannot be regularised because of the instructions issued by the nodal ministry viz. Department of Personnel & Training as stated above.

5. Annexure-II letter dt. 22.2.93 has no relevance as the applicant herein is not appointed before 7.6.1988.

6. This Tribunal is consistently holding the view that a trained personnel will be better than an untrained person. As the applicant herein had worked for some time in the department he had picked up the work and will be able to discharge his duties better than a fresh candidate from the open market. However, if such fresh candidates are sponsored through Employment Exchange they have to be given preference even for the casual labour engagement over the applicant in view of the circular issued by the Deptt. of Personnel & Training dt. 8.4.1991 quoted above, as such candidates only can be regularised.

7. In the facts and circumstances of the case, the following direction is given:-

The applicant should be re-engaged if there is work in the organisation of the respondents if there are no Employment Exchange sponsored candidates.

-- Casual Labourers instead of taking fresh candidates from open market who are not sponsored through Employment Exchange. Applicant cannot claim seniority on the basis of his earlier service. If the applicant herein is going to be re-engaged in pursuance of this order, none shall be retrenched who ---.

8. The OA is ordered accordingly at the admission stage itself. No costs. /

R. Rangarajan
(R. Rangarajan),

✓. Neeiadri Rao
Vice Chairman

Dated 19/12/94
December, 1994.

G.R.

Deputy Chairman

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR.R.RANGARAJAN : M(ADMN)

DATED: 19-12-1994

ORDER/JUDGEMENT

M.A./R.A/C.A.NO.

in

O.A.No. 1492/94

T.A.No.

(w.p.)

Admitted and Interim directions issued.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

No order as to costs.

No order as to costs.

No order as to costs.

